

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT BATTLE,

Defendant-Appellant.

UNPUBLISHED

May 2, 2006

No. 260542

Wayne Circuit Court

LC No. 03-013543-01

Before: White, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of criminal sexual conduct in the third degree (CSC III), force or coercion, MCL 750.520d(1)(b), entered after a bench trial. We affirm.

Complainant testified that at approximately midnight on July 19, 2003, she was walking to a store in the area of 6 Mile and Waltham in Detroit when defendant, whom she recognized from a time when they lived in the same building, pulled her into an alley behind the store, choked her, and forced her to perform fellatio on him. Complainant indicated that the area was not well lit and that few people were on the street at the time the incident occurred. Complainant received treatment from paramedics but did not go to the hospital. Officers who responded to the scene observed injuries on complainant's person and rips to her clothing.

Defendant testified that complainant occasionally performed fellatio on him in return for money to buy crack cocaine. Defendant asserted that on the night in question he and complainant argued and that he slapped her once in the face, but denied ripping her clothes or forcing her to perform fellatio on him.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the trial court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was

aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C). A finding is considered to be clearly erroneous if, after a review of the entire record, we are left with the firm and definite conviction that a mistake was made. *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

To establish the charged offense of CSC III, force or coercion, the prosecution was required to show that defendant engaged in sexual penetration with complainant under certain aggravating circumstances, including penetration accomplished by force or coercion. MCL 750.520d(1)(b). Force or coercion includes, but is not limited to, acts of physical force or violence, or threats of force. The existence of force or coercion is determined in light of all the circumstances. *People v Crippen*, 242 Mich App 278, 282-283; 617 NW2d 760 (2000).

Defendant argues that insufficient evidence was produced to support his conviction because complainant's testimony was not credible. We disagree and affirm defendant's conviction. This case centered on the credibility of the witnesses. The trial court, sitting as the trier of fact, was entitled to find complainant's testimony credible, and to reject the testimony given by defendant. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Moreover, the testimony of a sexual assault victim need not be corroborated. MCL 750.520h. Complainant's testimony that she was in a hurry because she thought the store would close soon, as well as her testimony that the area was not well lit, was irrelevant to the elements of the charged offense. Complainant's testimony that her clothing was torn was corroborated by the testimony of an officer. Complainant's testimony that defendant dragged her to the alley behind the store, choked her, and forced her to perform fellatio on him, as accepted by the trial court, established the elements of CSC III. MCL 750.520d(1)(d); *Crippen, supra*. The evidence produced at trial was sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Helene N. White
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot